



OFFICE OF THE SECRETARY OF STATE

MONAE L. JOHNSON, SECRETARY OF STATE
THOMAS J. DEADRICK, DEPUTY SECRETARY OF STATE

State Board of Elections Meeting Minutes

DRAFT

Wednesday, June 28, 2023
11:00 A.M. CDT

Secretary of State's Business Services Conference Room
215 E Prospect Avenue
Pierre, SD 57501

Contact: [Rachel Soulek, Director, Division of Elections](#)

A. Call to Order:

Secretary of State Monae Johnson called the meeting to order at 11:00 A.M. CDT.

BOE Members Present:

(Chair) Secretary of State Monae Johnson, (BOE) John Lake, (BOE) Lindley Howard, (BOE) Michael Buckingham, (BOE) Jackie Sieverding, (BOE) Scott McGregor.

Excused: (BOE) Margaret Gillespie.

Others Present (In-Person):

Thomas J Deadrick (Deputy Secretary of State), Rachel Soulek (Director, Division of Elections), Christine Lehrkamp (Deputy Director, Division of Elections), Lori Gloe (SOS Staff) Reggie Rhoden (SOS Staff), Logan Manhart (SOS Staff), Clifton Katz (Assistant Attorney General), Bob Mercer (KOTA News), Thomas Oliva (Hughes Co. CFO), Jane Naylor, David Kruse, Chet Ellsworth, Ardis Halvorsen, Rick Weible, Penny BayBridge, Eric Dutenhoeffer, Burdena Weidner, Fred Weidner, Debra Kendrick, Maggie Wily, Meta Halvorsen, Jim Anderson, Linda Montgomery, Diana Page, Bruce Whalen, Dave Reker, Donald Bice, Mike Mathis, Joe Faddoul, Allen Goodman, Valerie Samuelson, Matthew Monfore, Sheri Lund, Tammie McKenzie, Brenda Hudelson, Scott Montgomery.
(17 others present VIA call-in.)

B. Approve the Draft Minutes from March 15, 2023 Meeting:

A motion to approve the March 15, 2023, Board of Elections draft minutes was made by Buckingham; seconded by McGregor.

Voice Vote: Motion Carries.

C. Approve the Agenda:

Secretary of State Monae Johnson suggested that the rules hearing follow ascending order on the packet previously sent to the board with the correction that "AR 5:02:09:02:02" on the agenda be corrected to

"AR 5:02:09:01:04."

Lake made the motion to approve the change in the rules order; seconded by Buckingham.

Voice Vote: Motion Carries.

A motion to approve the agenda as amended for the June 28, 2023 Board of Elections meeting was made by McGregor; seconded by Sieverding.

Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye, McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.
Ayes 6 – Nays 0; Motion Carries.

D. Rules Hearing to Amend or Enact the Following Administrative Rules:

Rules Hearing began at 11:03 PM CST.

1. AR 05:04:06:10. Voter Registration File Security

Rachel Soulek opened the discussion by informing the board the SOS office has been working with vendor, KNOWiNK (Formerly BPro), to come up with the language for the system's security parameters. The SOS office added that Bureau of Information Telecommunications (BIT) has reviewed and stated that the proposed rule is a good starting point. BIT may have further suggestions at a later date. KNOWiNK was represented at the meeting and provided compliance with Federal & state guidelines as well as definitions and procedural explanations.

Buckingham made a motion to change the language of AR 05:04:06:10 to reflect the Secretary of State as the governing body that maintains the anti-malware solutions. Seconded by Sieverding.

Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye, McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.
Ayes 6 – Nays 0; Motion Carries.

McGregor moved to approve the rule as amended; seconded by Buckingham.

Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye, McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.
Ayes 6 – Nays 0; Motion Carries.

2. AR 5:02:03:01 Makes Changes to Voter Registration Form

It was inquired if this was the exact language as SB 139 or 140. Questions about the rule language and definition of residence were also brought up and clarified by the board. Public remarks indicated apprehension to the phrasing on the form pertaining to the 30-day rule as a determinant of residency, due to concern about residents from other states applying for South Dakota Drivers Licenses with a PO Box or other non-permanent addresses and abusing the rule in order to vote without residing in South Dakota. Further comments highlighted desire for integrity, preventing out-of-state-voters, and the monetary cost to SD Voters.

McGregor moved to approve AR 5:02:03:01 as proposed; seconded by Howard

Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye, McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.
Ayes 6 – Nays 0; Motion Carries.

3. AR 05:02:03:14 Acknowledgement Notice for Rejected Voter Registrations

The board discussed adding "Call if you have questions" with a contact number at the bottom of the form. Discussion of subsequent changes to the rule continued. There were several clarifications made about notices of corrections and validation of voter registrations.

Howard made a motion to approve, adding that the board revisit the addition of a 'Call if you have questions' portion at a later meeting; seconded by Sieverding.

Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye,

McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.
Ayes 6 – Nays 0; Motion Carries.

Secretary of State Monae Johnson called a break for lunch at 12:01 P.M, CST
Secretary of State Monae Johnson called the meeting back to order at 12:38 P.M. CST

4. AR 5:02:04:18 Notice of statewide runoff election

A brief background of the rule and explanation of the language in statute was given and it was confirmed the notice would only be applied to statewide elections.

Sieverding moved to approve the rule as proposed; seconded by Lake.
Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye,
McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.
Ayes 6 - Nays 0; Motion Carries.

5. AR 5:02:08:45 Form for precinct committeeman or committeewoman

Deputy Secretary Deadrick provided an overview of the addition of email address and phone number to the form. Further discussion clarified the intent of the form as a statement of candidacy.

McGregor moved to amend the form to be stated as a statement of candidacy, seconded by Buckingham.

Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye,
McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.
Ayes have it 6-0; Motion Carries.

Secretary of State Monae Johnson made a motion to approve AR 5:02:08:45 as amended.
Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye,
McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.
Ayes 6 – Nays 0; Motion Carries.

6. AR 5:02:09:01:01 Notice of testing automatic tabulating equipment

Early discussion brought up county auditors' desire to change the form to include the name of the person who is party chair. It was suggested not to list parties as statute says to notify only those with their party on the ballot. Discussion regarding the format of the form continued amongst the board.

Lake moved to amend the notice to remove the language specifying county chair parties and replace it with "each political party with a candidate..." as stated by the auditors in their comments; seconded by McGregor.

Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye,
McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.
Ayes 6 – Nays 0; Motion Carries.

Public discussion provided explanation of testing practices, notices, and locations. There was further divulgence into the different types of tests and checks for creased, damaged, or spoiled ballots and how these errors are corrected.

Lake moved to approve the rule as amended; seconded by McGregor.
Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye,
McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.
Ayes 6 – Nays 0; Motion Carries.

7. AR 5:02:09:01:02 Test of tabulating equipment.

The board discussed the reasons for the deletions on the form made by LRC. Lake provided explanation that the changes made by the LRC were due to duplicate language in statute. Public comment raised questions about who chooses the tabulating equipment, verification of tabulator testing, and equipment documentation. There was an in-depth look at the chain of custody over tabulation equipment and current practices.

Buckingham moved to approve the rule as proposed; seconded by Lake.

Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye, McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.

Ayes 6 – Nays 0; Motion Carries.

8. AR 5:02:09:01:04 Sealing tabulating equipment

The board discussed the DS200 and the multiple tests available in response to an error. Further discussion suggested the equipment should only be sealed after an errorless test. Public discussion voiced further support for maintaining a tight chain of custody over tabulating machines. The board adopted the rule which specifies that the tabulating machines will be sealed after each errorless test.

Sieverding moved to approve rule as proposed; seconded by McGregor.

Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye, McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.

Ayes 6 – Nays 0; Motion Carries.

9. AR 5:02:10:09 Nursing facility, assisted living center, or hospital absentee voting

Soulek explained the rule was promulgated by the legislature to have language in place in accordance with HB 1160 Sec 10. Deadrick suggested deferring the rule in order to allow auditors time to provide additional input.

Howard moved to defer AR 5:02:10:09; seconded by Sieverding

Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye, McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.

Ayes 6 – Nays 0; Motion Carries.

10. AR 5:02:16:01:01 Ballot Box Security

Howard moved to defer AR 5:02:16:01:01 to the next meeting where rules will be discussed, to allow the auditors more time to provide input as requested by the auditors; seconded by Lake.

Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye, McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.

Ayes 6 – Nays 0; Motion Carries.

11. AR 5:02:19:11 Oath of recount board

The board discussed that the oath for the recount board and the post-election audit board should be the same.

McGregor moved to amend the language of AR 5:02:19:11 to reflect the oath language as written in 5:02:23:01; seconded by Buckingham.

Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye, McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.

Ayes 6 – Nays 0; Motion Carries.

Buckingham moved to approve the rule as amended; seconded by McGregor.
Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye,
McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.
Ayes 6 – Nays 0; Motion Carries.

12. AR 5:02:21:01 Voter Cancellation Form

Deputy Secretary Deadrick began the discussion by thanking the auditors for their comments which improved the form and were incorporated into the form as presented to the board. Sieverding explained the full process and how the auditors manage an up-to-date record of voter-cancellations. It was suggested that both the last 4 digits of SSN# and Driver's License #/Non-Driver ID # be listed rather than one or the other. Examples of where this idea may cause issues were discussed.

Howard moved to amend AR 5:02:21:01 to change the language from "Last Four Digits of SSN: OR Driver's License #/Non-Driver ID #" to "Last Four Digits of SSN: AND Driver's License#/Non-Driver ID."

Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye,
McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.
Ayes 6 – Nays 0; Motion Carries.

Sieverding moved to add a phone number to the contact form; seconded by Buckingham.
Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye,
McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.
Ayes 6 – Nays 0; Motion Carries.

Buckingham moved to approve the rule as amended; seconded by Lake.
Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye,
McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.
Ayes 6 – Nays 0; Motion Carries.

13. AR 5:02:23:01 Oath of post-election audit board

McGregor moved to approve AR 5:02:23:01 as proposed; seconded by Lake.
Roll Call Vote: Buckingham-Aye, Gillespie-EXCUSED, Howard-Aye, Lake-Aye,
McGregor-Aye, Sieverding-Aye, Secretary Johnson-Aye.
Ayes 6 – Nays 0; Motion Carries.

Secretary of State Monae Johnson convened the rule-making portion of the meeting.

E. Discuss further rule making

Deputy Secretary of State Deadrick explained to the board that there will be more rules drafted and presented to the Board for their Consideration. He further explained that the Secretary of State's Office can implement some statutes without rules being promulgated, and that amendments to those enacted statutes reflecting the same will be submitted to the Legislature in 2024.

F. Public Comments

Citizens provided anecdotal information supporting manual hand-counting of ballots in unison with distrust of tabulating machines, with emphasis on distrust of machines sourced from China. Citations to specific election systems were made. There was a request for the Secretary to amend the Governor's executive orders regarding unfriendly countries to which

the commentator was informed that the Secretary only attests to the signature, not the content. There was expressed concern for the cyber-security of electronic election systems. There were also suggestions on how to save the state money on ballot-processing. The public comments were all heard and some of the auditor's comments were adopted.

Secret of State Monae Johnson announced a change of location for the next BOE meeting.

McGregor moved to adjourn; seconded by Sieverding.

Meeting adjourned at 2:00 P.M. CST

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